

1975 WL 29826 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 20, 1975

\*1 Honorable Gilbert E. McMillan  
Member  
South Carolina Senate  
402 Colleton Avenue, S.E.  
Aiken, South Carolina 29801

Dear Senator McMillan:

In reply to your request of last Friday concerning Section 87 of the Appropriations Bill now before the Senate, I offer the following comments:

The 32 entities listed in Section 87 are, in general, unknown to me as to composition, purpose and form of organization. Some of these are well-known by name, but not in organizational detail. With respect to the following, it is my opinion that appropriations therefor are valid in that they serve a public purpose and are in furtherance of the exercise of governmental functions:

Atlantic States Fisheries—Dues Commission on Uniform State Laws Council of State Governments Education Commission of the States Family Court Judges Council Interstate Mining Compact National Center of State Courts National Governor's Conference Poet Laureate Southern Growth Policies Board National Conference of Legislative Leaders National Conference of State Legislatures

Omitted from the above listing are some organizations which may or may not be subject to appropriations by the State.

In determining whether an appropriation of public funds violates the constitutional provision prohibiting gifts of public money or property, the primary question is whether the funds are to be used for a public or private purpose. The Supreme Court of this State has held that a private, non-profit, non-sectarian association may not be used to undertake a function which the State itself can undertake. In that case, it was a private association which was involved and which operated a hospital to which the county made appropriations.

No appropriations can be made to an agency which has any religious affiliation nor can appropriations be made to an agency which has any profit-making aspects. An item to be considered is assessing each such association or agency, whether a corporation or not, must be a conclusion as to what provision is made for funds or property that may be on land upon dissolution of the corporation or association.

With respect to the remaining agencies set forth in Section 87, I have not had sufficient time to undertake a study to determine whether or not these organizations are religious or profit-making or whether they subserve a public purpose. The controlling constitutional provision is Article X, Section 6 of the Constitution, which provides: 'The credit of the State shall not be pledged or loaned for the benefit of any individual, company, association or corporation—.'

Further research will be necessary in order to determine the applicability of the constitutional provisions to the entities referred to in Section 87.

A memorandum prepared in this Office during the weekend is enclosed herewith, which sets forth the general law upon the subject.

With best wishes,  
Very truly yours,

Daniel R. McLeod  
\*2 Attorney General

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